

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, October 1, 2014
Time	Noon – 2 p.m.
Location	Utah State Capitol, Senate Caucus Room
Members Present	Patrick Anderson, Chief Craig Black, Paul Boyden, Darin Carver, Mike Haddon for Rollin Cook, Jesse Gallegos, Ron Gordon, Rachelle Hill, Judge Scott Johansen, Judge Thomas Low, Richard Mauro, Rep. Jennifer Seelig, Senator Dan Thatcher, Judge Vernice Trease, Pam Vickrey, Carlene Walker, Christina Zidow
Members Excused	Craig Barlow, David Brickey, Sen. Gene Davis, Al Emery, Judge Janice Frost, Rep. Richard Greenwood, Judge Gregory Orme, Chris Roach, Sheriff James Winder
Staff & Visitors	Staff: Jo Lynn Kruse, Dr. Ben Peterson, Jennifer Valencia Visitors: Susan Allred, Rep. Patrice Arendt, Geri Miller-Fox, Judge McCullagh, Debra Moore, The Quinn Family, Rick Schwermer
Agenda Item	Welcome - Approval of Minutes
Notes	Carlene Walker called the meeting to order and welcomed everyone. Senator Thatcher made the motion to approve the August minutes. Christina Zidow seconded the motion which passed unanimously . Jennifer Valencia thanked Judge Trease for allowing commission members the opportunity to observe court sentencing proceedings. It was helpful to observe firsthand some of the issues we are attempting to address with the AP&P Incentives and Sanctions Matrix.
Agenda Item	Proposed Bill Regarding Traffic Accident Causing a Death (tape 11:00)
Notes	Representative Patrice Arendt and Paul Boyden discussed draft legislation titled <i>Penalty For Traffic Violation Causing A Death</i> . The bill enacts provisions relating to violating a provision of the Traffic Code and causing the death of another person. On October 24, 2013, Judge Anthony Quinn was killed by a distracted driver while riding his bike up Mill Creek Canyon. The defendant pled guilty to a class B misdemeanor count of reckless driving, which is punishable by up to six months in jail. The defendant also was ordered to pay a \$670 fine. The proponents of the legislation indicated this bill addresses a deficit in current law and reflects loss of life specifically. The Commission discussed the draft at length and recommended striking the word motor from lines 13, 40 and 70. Several issues were discussed including the question of whether traditional tort liability would be the standard under this bill; the use of the term “proximate cause;” who would determine who “caused” the death if more than one vehicle were involved in the accident, and the impact on potential plea agreements. Richard Mauro made the motion to table this topic until the December meeting. Patrick Anderson seconded the motion. The motion passed with Judge Trease abstaining.
Agenda Item	Proposed Bill Regarding Assault/Threat Statute (tape 44:00)
Notes	Judge McCullagh and Rick Schwermer discussed revisions to Utah Code 76-5-102 Assault, 76-5-103 Aggravated Assault, and 76-5-107 Threat of violence -- Penalty. The revisions were discussed previously in the Justice Court Subcommittee generally and the specific proposal has now been approved by the misdemeanor prosecutor’s association (MISLAC). The proposal moves threats under the misdemeanor assault statute to the threat of violence statute. Aggravated assault elements would remain the same but include minor technical revisions to account for the change in the misdemeanor assault statute. Minor technical revisions were suggested. Senator Thatcher volunteered to sponsor the bill. Paul Boyden made the motion for the Sentencing Commission to take on this bill and support it. Senator Thatcher seconded the motion which passed unanimously.
Agenda Item	Update on PEW/CCJJ Subgroups (tape 1:00)
Notes	Ron Gordon discussed the three CCJJ subgroups: Sentencing, Release, and Treatment & Supervision. Sentencing Subgroup - is chaired by Carlene Walker. Policy options under consideration are: Drug Sentences, Drug-Free Zones, Criminal History Scoring, Probation Technical Revocations, Offense Classifications, and Local Impacts. Next steps will be to examine additional policy areas, including: Diversion options and pre-sentence screening and assessment options to provide judges with more information for higher risk offenders. Also, the need to examine impacts of policy options to understand the costs and savings. Release Subgroup – is chaired by Angela Micklos. Policy options under consideration are: Earned Time Credits, Presumptive Parole, Parole Technical Violations, and Increase Successful Transitions. Next steps will be to examine: Release options for aging prisoners and prisoners with serious mental health disorders, Framework and guidelines for departures from the Sentencing Guidelines, Training for Hearing Officers and Parole Board members and Data collection and outcome tracking.

	<p>Treatment & Supervision Subgroup – is chaired by Rollin Cook. Policy options under consideration are: Graduated Sanctions & Incentives, Earned Compliance Credit, Evidence-Based Treatment Standards and Improve Re-Entry Support. Next steps will be to continue clarifying details and reaching consensus on policy options under consideration. Consider the following: Treatment & Supervision reinvestment options, Reentry planning and Performance incentive funding.</p> <p>The full CCJJ committee will meet on October 9 to finalize the proposals. It is anticipated that the full package will be refined and then presented to the legislature at the November Interim date (November 19).</p>
Agenda Item	Subcommittee Reports and Goals for Remainder of 2014 (tape 1:14)
Notes	<p>AP&P Matrix – Geri Miller-Fox, from AP&P, discussed the work that has been done on the current version of the Incentive & Sanction Matrix (ISM) and the Specific Data Tracking Points. DTS is currently working with AP&P on two projects: assessments and the matrix (in that order). Jennifer Valencia, Debra Moore and Geri Miller met as a smaller working group initially, with the full AP&P Matrix Subcommittee meeting twice over the past month in order to fully coordinate with the ongoing efforts of the CCJJ/PEW Supervision and Programming Subcommittee. Any specific directives from CCJJ on the ISM will be incorporated as we continue to develop the Matrix. Geri stated that Utah is ahead of other states on the incentive phase. Other states have simply developed a continuum of sanctions where Utah is attempting to address not only the continuum of sanctions, but also the behavioral change component. Jennifer distributed the current draft of the matrix, which initially started from a draft of the Travis County Texas Model. Jennifer attended the Smarter Sentencing Conference recently which was coordinated by the Administrative Office of the Courts and the National Association of State Courts. Debra Moore and Judge Low were in attendance as well as representatives of the judiciary, prosecution, defense, and AP&P. Both the Travis County Texas Model as well as the Napa County Model were discussed. Many liked the simplicity of the Napa County Model. Jennifer indicated they would like to simplify the pre-sentence report judges receive to include the type of information in the Napa County model which would carry over into the AP&P ISM. Please review these and give any feedback or ideas to Jennifer. Geri is meeting on Monday October 6 with a team of AP&P staff to begin discussing implications of the matrix. AP&P would like to begin piloting the project and then have a useable matrix by late spring or early summer of 2015.</p> <p>Juvenile – Paul Boyden discussed an amendment to Utah Code 62A-7-201 under Commitment of State Prisoners Younger Than Age 18 to Juvenile Facilities. Jennifer also prepared a report of the last two meetings of this subcommittee to summarize the discussion. Paul indicated the intention is to address the housing of those juveniles who are sentenced to the State Prison under the current statutory scheme. The primary concern was whether the impact of such legislation would result in “net widening.” Net widening occurs when a new sanction is introduced which is intended to be used in lieu of another sanction which is more severe. There was no consensus at the conclusion of the last meeting. Most are concerned about the impact of a State Prison commitment upon youthful offenders, but there was no consensus that the proposed legislation would not result in net widening. Paul presented another amendment today which would also narrow direct files. This proposal has not been discussed. No vote was taken today by the Commission. Jennifer indicated that the next meeting of the Juvenile subcommittee will be scheduled to address the proposed amendments to the Juvenile Guidelines that she, Susan Burke, Chris Roach, Krista Airam, and Dawn-Marie Rubio have been working on.</p> <p>Justice Courts- Many of the issues the Justice Courts subcommittee have been discussing are likely to be addressed in the PEW/CCJJ package. Jennifer indicated that the issue of a Best Practices Manual or other guidelines for misdemeanor sentencing has been an ongoing issue within the subcommittee with no clear consensus. Jennifer asked whether the Sentencing Commission would like the Justice Courts subcommittee to move forward with that task. Judge McCullagh indicated he thought it would be very helpful for Justice Court judges. Jennifer indicated that the next meeting of the subcommittee would be scheduled to begin addressing the issue specifically.</p> <p>Guidelines – (inactive) This subcommittee will meet again once the PEW/CCJJ proposals are finalized to begin discussing incorporation of the changes into next year’s guidelines.</p> <p>Anomalies – (inactive) This subcommittee has been inactive. Jennifer suggested that given the number of potential legislative proposals in the coming months, this subcommittee could preliminarily screen those proposals for any concerns to be addressed prior to the full Sentencing Commission meeting again. Paul Boyden and Patrick Anderson agreed this subcommittee could do so.</p>
Agenda Item	Meeting Calendar for 2015 (tape 1:39)
Notes	The meeting calendar for 2015 is enclosed in your packet of handouts. Please note that the December 2014 meeting will be on December 3rd. The date was incorrect at the bottom of today’s agenda.
Next Meeting	The next meeting will be on December 3, 2014, Utah State Capitol Bldg, Senate Caucus Room
Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ	